REMARKS

Claims 1, 4, 6-9, 11, 12, 14-21, 25-29, 32-38, 41-49, 52, 53 and 55-59 are presently under consideration. Claims 1, 6, 21, 38, 49, 52, 53 and 55-59 have been amended as shown on pp. 2-13 of the Reply. Claims 2, 3, 5, 10, 13, 22-24, 30, 31, 39, 40, 50-51 and 54 remained cancelled.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Examiner Interview

Applicants' representative thanks Examiner Dean for his time and consideration during the interview conducted on August 11, 2009. During the interview, the below-described rejection under 35 U.S.C. § 112, first paragraph of claims 1, 4, 6-9, 11, 12, 14-20, 38 and 41-48 was discussed. In particular, the rejection was discussed with regard to the features recited in amended independent claims 1 and 38, in conjunction with the teachings of the specification. Agreement was reached that the discussed portion of the specification at least appeared to enable the portion of claims 1 and 38 to which the rejection was directed. Examiner Dean instructed the Applicants' representative to file the written response including such arguments. Examiner Dean also informed the Applicants' representative that he would contact the Applicants' representative after his examination of the response to discuss any further matters towards placing the claims in condition for allowance. Again, Applicants' representative appreciates Examiner Dean's time and consideration.

II. Allowabilility of Claims 21, 25-29, 32-37, 49, 52, 53 and 55-59

Applicants' representative thanks Examiner Dean for his notification that each of claims 21, 25-29, 32-37, 49, 52, 53 and 55-59 recites allowable subject matter.

III. Rejection of Claims 1 and 38 Under 35 U.S.C §112

Claims 1 and 38 stand rejected under 35 U.S.C §112, first paragraph, as failing to comply with the written description requirement. In particular, the Office Action alleges that claims 1 and 38 contain subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most closely connected, to make and/or use the invention. Specifically, on page 2, the Office Action alleges:

> **The feature of identifying the change in the return link and adjusting the data rate performed concurrently by a transmitter of the message and a receiver of the message . . . does not appear to be sufficiently enabled.** Applicants do indicate said above feature in the disclosure, however, said indication does not teach those skilled in the art how to make and use the scope of the claims. There is no sufficient detail in said indication that would enable one skilled in the art how to make and use the entire scope of the claimed invention without undue experimentation. (Emphasis added).

Applicants' representative respectfully submits that amended independent claim 1 recites subject matter for which the specification enables one skilled in the art to which it pertains, or with which it is most closely connected, to make and use the features of claim 1 without undue experimentation.

Amended independent claim 1 recites:

> A method comprising: . . . adjusting a data rate, at the terminal, based, in part, on a determination made at the terminal to adjust the data rate to correct for degradation of the return link signal quality, for a message sent from the terminal through the return link based on the change in the return link signal quality, without changing link power levels and the interference relationship among the plurality of terminals, wherein identifying the change in the return link signal and adjusting the data rate are performed **concurrently** by a transmitter of the message and a receiver of the message. (Emphasis added).

The specification of the instant application enables one of ordinary skill in the art to make and use the invention claimed in amended independent claim 1 in, at least, paragraphs [0081]-[0085]:

> FIGS. 2 through 5 illustrate flowcharts for several embodiments. FIG. 2 illustrates one embodiment at a high level, including just two elements. In a step or processing stage 210, the illustrated embodiment identifies a change in the signal-to-noise ratio (SNR) for a return link. The SNR is measured at a gateway, and the return link comprises a CDMA channel. **In a step or at a processing point 220, the embodiment adjusts a data rate for a message based on the change identified in the SNR.** Changing the data rate does not change, or does not significantly change, an interference relationship among multiple simultaneous users of the

> CDMA return link. In FIG. 3, a feedback signal is received from a gateway in a step or stage 310. The feedback signal indicates either a value for the SNR level as measured at the gateway, or a value for the change in the SNR level as measured at the gateway. … In alternative embodiments, the data rate many be adjusted less often. For instance, rather than checking the SNR for every message, one embodiment may only check the SNR once every N messages. Certain embodiments may adjust the data rate more often. For instance, one embodiment may **continually monitor or repeatedly sample the SNR and begin adjusting the data rate whenever a change in the SNR reaches a particular level**, which may be **during a the transmission of a particular message**. (Emphasis added).

Accordingly, the specification discloses adjusting a data rate for a message based on a change identified in the signal-to-noise ratio ("SNR") on the reverse link. The reverse link is the link from a terminal to a satellite, and the transmissions received by the satellite are transmitted to a gateway. In some embodiments, the change in the SNR is determined by the gateway and the gateway transmits to the terminal a feedback signal. The feedback signal is used by the terminal to adjust the data rate of messages transmitted from the terminal.

In some embodiments, the SNR (or change thereof) is monitored and, when the SNR reaches a particular level, adjustment of the data rate begins. In this embodiment, the SNR reaches the particular level, and the adjustment of the data rate begins, concurrently, during the transmission of a single message. Accordingly, in at least this passage, the specification enables one of ordinary skill in the art as to how to make and use one embodiment of the features recited as "identifying the change in the return link signal and adjusting the data rate are performed **concurrently** by a transmitter of the message and a receiver of the message" (emphasis added). Applicants' representative notes that the above-described portion of the specification is merely one example of a portion of the specification that enables one of ordinary skill in the art as to how to make and use the claimed feature. Applicants' representative does not intend to assert or admit that the above-described portion is the only portion of the specification that enables one of ordinary skill in the art as to how to make and use the claimed features.

In view of the foregoing, Applicants' representative respectfully submits that amended independent claim 1 overcomes the rejection under 35 U.S.C. § 112, first paragraph. Therefore,

Applicants' representative requests that the rejection be withdrawn and that amended independent claim 1 (and claims 4, 6-9, 11, 12 and 14-20, which depend therefrom) be allowed.

Amended independent claim 38 recites:

> An apparatus comprising: . . . a data rate generator configured to adjust a data rate, at the terminal, based, in part, on a determination made at the terminal to adjust the data rate to correct for degradation of the return link signal quality, for a message sent from the terminal through the return link based on the change in the return link signal quality without changing link power levels and the interference relationship among the plurality of terminals, wherein the data rate generator is configured to receive a feedback signal, at a terminal feedback input, from the gateway, the feedback signal indicating at least one of the signal-to-noise ratio for the return link as measured at the gateway or the change in the signal-to-noise ratio for the return link as measured at the gateway, wherein identifying the change in the return link signal and adjusting the data rate are performed **concurrently** by a transmitter of the message and a receiver of the message. (Emphasis added).

For at least the reasons provided above with regard to amended independent claim 1, Applicants' representative respectfully submits that amended independent claim 38 overcomes the rejection under 35 U.S.C. § 112, first paragraph. Therefore, Applicants' representative requests that the rejection be withdrawn and that amended independent claim 38 (and claims 41-48, which depend therefrom) be allowed.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [QUALP802USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicants' representative at the telephone number below.

Respectfully submitted,

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